

APPEAL NO. 041143
FILED JULY 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 19, 2004. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the first quarter, December 30, 2003, through March 29, 2004. The claimant appealed the hearing officer's SIBs determination. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant attached two documents to her appeal to show that she was enrolled in a vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC). Documents submitted for the first time on appeal are generally not considered unless they constitute admissible, newly discovered evidence. We conclude that these attachments to the claimant's appeal do not meet the requirements of newly discovered evidence necessary to warrant a remand. Having reviewed the documents, we conclude that its admission on remand would not have resulted in a different decision. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ).

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that the qualifying period for the first quarter of SIBs was from September 17 through December 16, 2003. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) by enrolling in and satisfactorily participating in a full-time vocational program sponsored by the TRC or by a private provider as set out in Rules 130.102(d)(2) and (3). Rule 130.102(d)(2) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been enrolled in, and satisfactorily participated in, a full-time vocational rehabilitation program sponsored by the TRC during the qualifying period. Rule 130.102(d)(3) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if during the qualifying period the employee has been enrolled in, and satisfactorily participated in, a full-time vocational rehabilitation program provided by a private provider that is included in the Registry of Private Providers of Vocational Rehabilitation Services.

The hearing officer found that during the relevant qualifying period, the claimant was not enrolled in a full-time vocational rehabilitation program sponsored by the TRC or by a private provider. The hearing officer concluded that the claimant was not entitled to SIBs for the first quarter. We conclude that the hearing officer's SIBs

determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **NATIONAL FIRE INSURANCE COMPANY OF HARTFORD** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge